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90-919

NO.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1990

EVELYN D. REEL and WILLARD D. REEL,

Petitioners

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent

On Appeal from the
United States Court of Appeals
for the Sixth Circuit

PETITION FOR A WRIT OF CERTIORARI TO THE U.S. SIXTH CIRCUIT COURT OF APPEALS

EVELYN D. & WILLARD D. REEL
2916 CLIFFSIDE ROAD
KINGSPORT, TN. 37664
TELEPHONE (615) 247-3348

October 30, 1990

P. 1 (a) QUESTIONS PRESENTED FOR REVIEW

WHETHER

1. Administrative COSTS ARE NOT RECOVERABLE (though RECOVERY IS CLEARLY SPELLED OUT UNDER THE 1988 TAXPAYERS BILL OF RIGHTS), and
2. Attorneys Fees can be Awarded only for the services of an individual (whether or not an attorney) "who is Authorized to practice before the Internal Revenue or the Tax Court" while IGNORING the Fact that Petitioner's Counsel IS Authorized to so practice.
3. IRC 7430 does not allow for Recovery Cost of "ALL Reasonable litigation costs"(as it CLEARLY States it DOES).
4. No decision was rendered regarding "ALL Reasonable costs", such as Expert Witness Fees, Cost of Studies, etc. Fees are paid or incurred.
5. "IRC 7430 provides the sole remedy for the amounts sought" DESPITE the SPECIFIC Allowance for them under Sec. 1920 USCA & the CLEAR Applicability of 2412 & a host of

(Cont)

P. 1 (Cont.) (a) QUESTIONS PRESENTED FOR REVIEW

WHETHER

5. (Cont) of other Cost Recovery Laws.
6. The CIR should be permitted to Ignore ALL Relevant Statute Law and substitute the Fanciful Notion "that one must be a member of the bar" to Recover ANY Legal Costs.
7. The President is subject to the Law's Commands.

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U.S. Vs. Reach, Supra, Cf. Kluger Vs. U.S., Supra; Llorento Vs. Comm., Supra; Cohen Vs. Comm., Supra

Ellsberg Vs. U.S., U.S.D.C., DC Sou. Calif. (1972), U.S. Supreme Court

"The Totality of the Circumstances are such as to constitute a TRAVESTY OF JUSTICE."

Kennedy Vs. Item Co., So.2d 886, 213 La 347

IRC 7452

Sosebee Vs. Balkcom, 339 U.S. 9, 16 (1970)

Florida, 1953
#1 Lee Vs. Delmar, 66 So. 2(d) 252

Rule 13.1

Dennis Vs. U.S., 1950, 71 S. Ct. 133, 340 U.S. 887, 95 L. Ed 644

Georgia Vs. Grant
1868, 73 U.S. 241
6 Wall 241, 3 L. Ed.
848

Poythress, Supra, dissenting opinion, IN RE

Dictionaries

"...Without exception they define term of 'attorney' in terms of someone who acts for another....."
Original Emphasis

Holly Vs. Acree, Supra

Sierra Club Vs. EPA, 248
U.S. App. DC 107, 120-121,
769 F 2d 796, 809-810(1985)
Blum Vs. Stenson, 465 U.S. 886
(1984) Ramas Vs. Lang.
713 F 2d 546, 558

IRC 6653(a)(1); IRC 6653(a)(2); IRC 6659-Appellants Prevailed on

26 USCA 6672

Britton, Supra, P. 2, second col. Par. 5, under U.S. Ex. Rel. Heydt Vs. Citizens State Bank,
668 F 2d 444, 447 49 AFTR
2d 82-531) (8th Cir. 1982

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Section 1001, U.S. Title #18-Cover Up

Shipley Const. & Sply Co. Vs. U.S. (Ct. Claimes 1974, 7 Supp. 492, 14 AFTR 134. Equity & Account Stated

Powell Vs. Alabama 287 U.S. 45(1932)

Shuttlesworth Vs. Birmingham, Ala. 89 S. Ct. 935

Louisville Joint Savings Land Bank Vs. Radford, 329 U.S. 555(1935)-Due Process of Law

Hoppe V. Kalpperish, 224 Minn. Rept. at 240

(FOIA) Hawkes Vs. IRS, 467 F 2d 787(6th Cir.) 1972 Conformed AG Levi Memo, P. 532

AG Memorandum, P. 24(FOIA), Ramsey Clark (p. 162, ibid.)

Goldberg Vs. Kelly 397 U.S. 254, 271

Watkins Vs. U.S., 77 S. Ct. 1173

Thiem Vs. Hertz Corp., 732 F 2d 1559, 1562-63 (11 Cir. 1984)

Covington Vs. Cole, 528 F. 2d 1365(5th Cir. 1976)

CONTENTS AS PER Stat. 2101

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(d) A Reference to Official & Unofficial Rpts.

1. IRS Audit Report, January 19, 1984.

2. Tax Court Motion for Recoverable Costs. Filed April 11, 1989. TC Denied.

3. Tax Court Motion to Reconsider, Filed June 30, 1989.

4. U.S. Sixth Circuit Court of Appeals Decision of August 2, 1990.

(e) A Concise Statement for Grounds for Jurisdiction.

1. The 1988 Taxpayers Bill of Rights Act, Section 6226, Short Title, Sub-Title J, Taxpayers Rights and Procedure and Companion Acts on the Question of Recoverable Legal Costs, Administrative and Attorneys Fees HAS NEVER BEEN RULED ON BY THE U.S. SUPREME COURT.

2. NO PROBABLE CAUSE. The Tax Court had no Probable Cause to Illegally Deny Para-Legals Right to Try the Case WITHOUT FIRST Granting a Mandamus Hearing as per Goldsmith, Supra. The Fact that (a) Willard D. Reel, Sr. did a very credible job and (b) DEWITT REEL and K.C. GRIFFIN were allowed to Consult with the Appellants did not Relieve the Judge of the Duty to Grant a Fair Trial to the Appellants because as per EQUITY,

Tallman Vs. Varick,
Black's Law Dictionary

"Equity delights to do Justice and <u>that not by halves.</u>"
(Italics added)

(b) The CIR had No Probable Cause" to Deny the Validity and the Applicability of the 1988 Taxpayers Bill of Rights when Appellants Filed a Motion for Recoverable Costs.

(c) The U.S. Tax Court Judge had no Probable Cause to show UNDUE FAVOR to Holman and Nadler and ac-

(e) A Concise Statement for Grounds for Jurisdiction.

2. NO PROBABLE CAUSE. (Cont.)

(c) and accept their specious Argumnets.

(d) The CIR had "No Probable Cause" to contend that the 1988 Civil Rights Attorneys Fees Act did not apply to IRS Cases.

(e) The U.S. Tax Court Judge Swift had no Probable Cause to show UNDUE FAVOR and maintain a "incestuous relationship" with Holman and Nadler and accept their specious Arguments.

(f) The U.S. Tax Court Judge Swift had "No Probable Cause" except COVER-UP to refuse to allow the Appellants the Trial Transcript IN TOTO ESPECIALLY in light of the many Errors and discreptancies and UNDUE FAVOR found therein.

(g) The CIR had "No Probable Cause" for contending that NONE of the below Statutes were applicable to this instant Case, The 1988 Taxpayers Bill of Rights; The 1988 Civil Rights Attorneys Fees Act; Section 1020-which his Attorneys treated as though it didn't exist, OR the 1974 FOIA.

(e)

2. NO PROBABLE CAUSE(Cont.)

(h) The CIR had "No Probable Cause" except "The Commissioners determination to be in Error", Steel or Bronze Piston Ring Corp. Vs. Comm., 13 TC 636(1944) to proclaim in the face of Overwhelming Evidence to the contrary Via Legislative History, the plain wording of the Statute itself and Case Law that: IRC 7430 "is the sole Authority for Granting the Amounts sought." Or to contend that "one has to be a member of the bar" to obtain Recoverable Costs.

(i) The U.S. Sixth Circuit Court of Appeals had "No Probable Cause" to Claim that the 1988 Taxpayers Bill of Rights didn't apply or to accept the CIR's specious and unsound arguments and positions on (g) and (h) above.

(e)

(3) Right to be Heard. Shapiro Vs. Thompson, Supra.

(4) Reversible Error- as repeatedly shown in The Index to the Trial Transcript.

(5) "SUBSTANTIALLY PREVAILED" Code Section 6239 (c)(1) of the 1988 Taxpayers Bill of Rights.

(6) DENIAL OF EQUAL ACCESS TO JUSTICE.

(7) COVER-UP, See Par. 19, Amend. Two; Reply Brief, Foreword, Par. 3.

(8) RIGHT TO PRACTICE, Shuttlesworth, Supra.

(9) Totality of the Circumstances, Ellsberg, Supra

(10) Appellants Right to Receive Counsel, Powell Vs. Alabama, Supra.

(11) The following Grounds for Recovery of Costs under the 1988 Taxpayers Bill of Rights and a host of other Statute Law.

(a) Petitioners were the "Prevailing Party";

(b) Petitioners "Substantially Prevailed";

(c) The Position of the United States was not "Substantially Justified;

(d) "IRS engaged in 'Naked Assessment'";

(e) The Burden of Proof rests with the Government

(f) IRS has never Denied that Costs were paid or incurred. They WERE paid or incurred.

(f) CONSTITUTIONAL GROUNDS

NOTE: APPELLANTS HAVE RAISED SO MAY CONSTITUTIONAL GROUNDS IN SO MANY MOTIONS IT WOULD BE BURDENSOME ON THIS COURT TO CITE EVERY INSTANCE, MOTION & PARAGRAPH SO THIS IS A BRIEF RESUME.

PREAMBLE TO THE UNITED STATES CONSTITUTION OF AMERICA-DECLARATION OF INDEPENDENCE.

"Right to the Pursuit of Happiness"- Means Right to Earn a Living in one's chosen Trade or Profession. The Right to Fame. To act as an Agent, without unwarranted, illegal, extra-legal or unreasonable restraints and nitpicking ing Harassments, TC Memo, 1954, Messing Vs. Morris; Kennedy Vs. Item Co., So. 2d 886, 213 La. 347; IRC 7452 and numerous Statutes and Case Law and Court Rules Cited and Quoted and shown to be applicable to this instant Case on a Factual Basis.

FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION OF AMERICA.

Means the Right to Speak for the Redress of Grievances; the Right not to be Gagged merely because one is merely performing One's Duty to their clients and is met by "The Commisioner's determination to be in error'.,

(f) CONSTITUTIONAL GROUNDS

FIRST AMEND.(Cont.)

as per Steel or Bronze Piston Ring Corp. Vs. Comm., 13 TC 636(1949) or be gagged by harassin and unreasonable Restraints. Shuttlesworth, Supra

THIRD AMENDMENT, UNITED STATES CONSTITUTION OF AMERICA.

U.S. Vs. Ellsberg, Supra; U.S. Vs. Merryman, May, 1861, U.S. Sp. Ct.

FOURTH AMENDMENT, UNITED STATES CONSTITUTION OF AMERICA.

Means the Right to be secure in "one's person, papers and effects and to be secure from unreasonable Searches and Seizures." This includes the Right to be given a Receipt for Documents turned over to the CIR in the process of an Audit and the Right not to be harassed because IRS Claims "we can't find them." The Trial Transcript makes it precisely clear that this IS what took place in the Case of Reel Vs. CIR. The IRS is bound by the same Rules of Behavior that other Government Agencies are bound by as the U.S. Supreme made clear in the Cases

(f) CONSTITUTIONAL GROUNDS (Cont.)

FOURTH AMEND. (Cont.)

U.S. Vs. Coviello, Supra and U.S. Versus Paynor, Supra.

FIFTH AMENDMENT, UNITED STATES CONSTITUTION OF AMERICA.

Wherein in nearly every one of Appellant's Motions the CIR's failure to observe Due Process of Law has been objected to. For Instance, see Par. 11 in Petitioner's Answer to IRS's Untimely Memo., 2/16/1990, see below:

Sosebee Vs. Balkcom, 339 U.S. 9, 16(1970)

"Due Process of Law is that conduct that comports itself with our deepest held notions of what is fair and right and just."

AMENDMENTS SIX & SEVEN, UNITED STATES CONSTITUTION OF AMERICA.

Right to a Fair Trial and to be Represented by Agents of one's own choosing. Powell Vs. Alabama, Supra; Medberry Vs. Patterson, Supra and many other Cases throughout these proceedings. ALSO, see Goldsmith, Supra.

(f) CONSTITUTIONAL GROUNDS (Cont.)

AMENDMENT EIGHT, UNITED STATES CONSTITUTION OF AMERICA.

(a) It has been cruel and Unusual punishment contrary to IRC 7214 for the IRS to use Audit procedures, Tax Court trial practices, and covert backdoor means in the Sixth Circuit Court of Appeals to Deny Equal Access to Justice;

(b) and Just Compensation (also covered by the 5th Amend.) hoping thereby that the Reels and their Para-Legals will simply go away and give up and to

(c) Ignore with Impun ity the Provisions of the 1988 Taxpayers Bill of Rights and MANY other Cost Recovery Acts.

(d) They have and continue to obstinately RESIST "this Cost Recovery action on Flimsy and erroneous Grounds"

FOURTEENTH AMENDMENT, UNITED STATES CONSTITUTION OF AMERICA.

(a) The IRS has dealt with the Reels and their para-legals "with an Evil eye and an uneven hand" contrary to Yick Wo. Vs. Hopkins,

Supra;

(f) CONSTITUTIONAL GROUNDS (Cont.)

FOURTEENTH AMENDMENT(Cont.)

(b) has Denied to them Basic Constitutional and Civil Rights contrary to Kalima Jenkins Vs. Supra

(c) and Obstructed and Denied Equal Access to Justice Contrary to the EAJA 2412 and IRC 7430, the 1988 Taxpayers Bill of Rights, the 1974 FOIA and IRC 1020.

(f) CONSTITUTUTIONAL GROUNDS (Cont.)

SIXTEENTH AMENDMENT, UNITED STATES CONSTITUTION OF AMERICA.

IRS has Violated the provision "the revenue laws shall be uniformly enforced" by the use of illegal and extra-legal secret formats, the hiding of documents, and Enemies Lists and by Tax Court Judge Swift's Statement in the Trial Transcript and pointed out specifically in the Index thereto: "Don't worry about what classification we put you in" which Verifies IN SPADES this Charge.

In conclusion to this Section (f) the Court's attention is called to Par. Two, Appeal from the Appellate Court's Decision wherein the Grounds under the First, Fourt, Fifth, Sixth, Seventh and Eight Amendments, United States Constitution of America are strongly nailed down .

(g) CONCISE STATEMENT OF THE CASE

Par. One

From 1981 till November, the IRS did without Just Cause engaged Harassment, went outside proper Audit Procedures; played a Con Shell Game with EVELYN D. REEL and WILLARD D. REEL of NOW you check out and then again You don't check out. At one point their former Attorney-At-Law Bill Owens and the former CPA Hyde (part of the Official Trial Transcript) had a Compromise Settlement worked out on their 1981 Income Tax Return and Mr. Reel went to the Bank and borrowed the money from the Bank for the EXPRESS PURPOSE OF PAYING THE IRS and THEN AND THERE IRS Transferred the Agent and RENEGED ON THE OFFER Contrary to Shipley, Supra. The Audits and Harassments went on for Years.

Par. Two

This Audit ened of it revolved around Energy Credits, Depreciation and related Issues on an Energy Development Company, namely, Sandhurst Inc. At this point in time the Reels point out that since WILLARD D. REEL was not in a Managerial Position and wasn't INVITED TO or INFORMED OF an Audit under dubious and devious Circumstances of Sandhurst, Inc. it was contrary to Equity and Due Process of Law to place him in a position of having to first defend Sandhurst before he could properly prepare for his own Defense.

Par Three

On a similar type deal on an Oil Well the Blue Dot Corp. and the Investors WON and stayed WON. Under proper IRS Audit Procedures when you win and check out on a number of Issues the

(g)

is NOT supposed to come back hazzling the taxpayer over the VERY same Issues on the VERY next Years ITR. Par. Four

THE REELS AT THIS POINT ASSERT EQUITY SINCE THEY WON ON "ACCOUNT STATED" DURING THE TRIAL AS PER SHIPLEY CONST. CO., SUPRA, THEY ASK FOR EQUITABLE RELIEF AS THOSE WHO HAVE BEEN "SIMILARLY SITUATED HAVE OBTAINED AS PER MIDWELL HAU* LERS, INC. AND SOUTHWESTERN ELECTRIC CORP. DID. Par. Five

Finally, having Exhausted Administrative Remedies the Senior Reels Sued in U.S. Tax Court Attorneys and CPA's all ran for cover and the Senior Reels called on the two Davids to come forth and meet Goliath Alias the IRS. Par. Five

When the Para-Legals, namely, DEWITT REEL and K.C. GRIFFIN took over the IRS in Response to Discovery Motions engaged in Massive Cover-up, EVEN going so far as to inform the Senior Reels in writing words to the effect: "Those documents are not available. We need them on another Case." Par. Six

FINALLY, having exhausted ANY Administrative Remedies not covere d when Bill Owens had the Case the Senior Reels under the new team Sued in U.S. Tax Court.

There was a Pre-Trial Audit Hearing which we'll cover in a minute.

With grim determination and game spirit the fine team of DEWITT REEL and K.C. GRIFFIN did the following:

Par. Six (Cont.)

A. FORCED the IRS to turn loose of the documents.

B. Discovered and PROVED Malicious Intent by the IRS.

C. Revealed the IRS Reneging proved same in open Court as documented in the Trial Transcript & Petitioner's Index Thereto.

D. Discovered who the IRS Agent was whoNegotiated the Compromise.

E. Contacted and Supoenaed Agent, Mrs. Phylis Rosen (her maiden Name had been Lyman at the time of the Audits.)

F. FORCED IRS to Admit the Validity of their Documents AND, Mrs. Rosen Attested to their Validity, and the Upshot was the Case had to be Settled on the Basis of the Compromise Settlement.

G. The Defense Team Supoenaed Vincent A. Woods, former General Manager of Sandhurst, Inc.

Par. Six(Cont.)

(g) G. (Cont.) who Attested to the Fact that the Investors acted in Good Faith; the Equipment had been operated for over Two Years Contrary to IRS Claims; he acknowledged the Validity of the Profit and Loss Statements per store per Month for Two Years and THIS proved Contrary to IRS Claims that Sandhurst, Inc. did in fact HAVE A PROFIT-MAKING MOTIVE. Woods also showed the Swarts Case was a Sham and Devise to Aid and abet the IRS in their Extortionate Claims and nefarious schemes. (Contrary to U.S. Vs. U.S. Dist. Judge Koehler, USDC Sou. Ill., (1960)

H. Had it not of been for the splendid way the Para-Legals FORCED the IRS to RELEASE the Documents and made superb use of them and in Addition thereto Petitioners Counsel was prepared to and was Ready, Willing and Able to Act and forthwith DID SO

Par. Six (Cont.)

H. (Cont.) Act as Expert Witnesses and showed One and All what Legally Estimating Costs was all about AND CONDUCTED Surveys, Studies, and Analysis and Projection of Findings of the Sandhurst Partners Documented Evidence and brought a Ray of Sunshine into the Vale of Darkness Created by the IRS at their Star Chamber Proceedings at Richmond, Va. contrary to the VERY Precepts of what this country was founded on NONE of the above would have seen the light of Day without the Invaluable Spirit and Supreme Courage of the Para-Legals, DEWITT REEL and K.C. GRIFFIN because as per Ellsberg, Supra (that's where Nixon tried to buy off the U.S. District Judge in Sou. Calif. with promises of a Promotion to do his dirty work)(1972) states:

(g) Par. Six(Cont.)

"..matters which have so long been hidden from public view are not likely to ever be disclosed."(Italics added).

(7)

In a full scale Donnybrook at the Pre-Trial Audit at the Hearings at the IRS Offices in Knoxville, Tennessee on March 14, 1989 the Senior Reels AND their Para-Legals DEWITT REEL and K.C. GRIFFIN crossed swords with the IRS Attorneys Edsel Ford Holman and Nadler in Six and One-Half Hours (according to IRS's own Admission as regards the time) DID THEN AND THERE DRIVE DOWN-Despite Insults and repeated Efforts to Violate Their and their Para-Legals Civil and Constitutional Rights-the IRS Claims from roughly $69,000 to $44,000. In the great Spirit of Patrick Henry and that Great Gospel Song "I Shall Not Be, I Shall Not Be Moved did then and there Establish the Fact that Injustice MUST NOT Prevail. Next morning in the Face of Malice run Rampant at the Trial Itself the Petitioners Reduced IRS Claims STILL FURTHER down to $13,889.29 plus Penalties and Interest.

(8)

THE ABOVE MEANS that under the 1988 Taxpayers Bill of Rights the Senior Reel's WERE Prevailing Party. This is a moot Point per

(g)

Par. 8(Cont.)

the Sixth Circuit Court THEY have conceded this Fact.

Par 9

IN FACT the Reel's Counsel have PRACTICED before the IRS & the Tax Court; IN FACT said Counsel have SMASHED the best Government lawyers and says to Thornburg COME FORTH GOLIATH; IN FACT Costs have been Paid and Incurred and NEVER Questioned for Expert Witness Fees OR ANY OTHER Legal Expense. IN FACT said Counsel IS ENTITLED to Attorneys Fees. PLEASE NOTE to our Knowledge NO Case Brought ~~in~~ under the 1988 Taxpayers Bill of Rights HAS EVER Reached the U.S. Supreme Court.

(10)

The Sixth U.S. Circuit Court of Appeals was in CLEAR ERROR by calling IRC 7430 "the sole authority" when the Law Itself in plain Language defer s to Stat. 1920. And only 2412 defers to 7430 while ALL Cases under 2412, the 1988 Civil Rights Attorneys Fees Act and the 1974 FOIA tend to BROADEN the definition of the word Attorney and the scope of the Award.

(g)

(11)

ALL applicable Case Law, Statute History and Congressional Intent point to AWARD OF AMOUNTS SOUGHT and there is NOTHING to prevent MULTIPLE AWARDS OR PUNITIVE DAMAGES.

(12)

The Sixth Circuit Court CLEARLY ERRED when it failed to publish the Case, which MEETS Rule 24 Criteria (a)(i), (ii) & (iii). (i) Novel Fact Situation; (ii) Conflict within Circuit or another Circuit; (iii) continuing public interest.

(13)

The Sixth Circuit CLEARLY ERRED in NOT Requiring the IRS to provide the PRE-TRIAL AUDIT REPORT WILL FURTHER PROVE Petitioners WHO CASE & THIS HAS BEEN WITHHELD in Violation of the 1974 FOIA and ALL DUE PROCESS OF LAW.

(14)

Now then for a brief History of the Sequence of Events following the Trial. In the Pre-Trial Audit Hearing BOTH the Senior Reels and their Para-Legals made it precisely clear to Edsel Ford Holman and Nadler, the IRS lawyers, that the Reel Team were proceeding under the 1988 Taxpayers Bill of Rights and expected the Government to Pay ALL Legal Costs including Attorneys Fees when the Government lost-

(g)

(14 Cont.)

there was simply NO WAY-the Government could win At the informal Conference Judge Swift was informed that the Reels wanted the Trial Transcript since it was necessary to the obtaining of Legal Costs. The Judge said he wouldn't make but 5 of the Pages available to the Reels.

(15)

When time rocked along and NO EFFORT was made by the Tax Court to abide to the clear Requirements of the 1988 Taxpayers Bill of Rights by the Tax Court in regards to the Recovery of Costs on Aprill 11, 1989 Appellants did THEN and THERE File a Motion to Reconsider to the Tax Court unde r Sec. 6226, Whort Title, Sub-Title J, Taxpayers Rights and Procedure.

(16)

The Response to this was to sit on the Motion and hope that the Senior Reels and their Para-Legals would just simply go away. Then the Court Responds that since Para-Legals weren't members they couldn't get Attorneys Fees. Of course this was in Violation of the Sixth Amendment, U.S.CA. Contrary to IRC 7452, see below

"...No qualified pe rson shall be denied Admission to practice before the Tax Court because of his trade or profession."

(g) (16 Cont.)

In addition thereto ti was Contrary to Goldsmith, Supra. Also it was contrary to Dennis Vs. U.S.; 1950 71 S. Ct. 133; 340 U.S. 887, 95 L. Ed. 644. Also it was Contrary to the plain wording of PL 100-647, 102 Stat. 3832, towit:

> "(c) REPRESENTATIVE HOLDING POWER OF ATTORNEY
>
> "who has a written power of ATTORNEY..may be authorized by such taxpayer to represent the taxpayer.. subsection(a)" (Italics added)

Also-as shown elsewhere in this Jurisdictional Statement-in a Case called to the attention of the U.S. Sixth Circuit Court of Appeals, namely, Holly Vs. Acree, Supra the Court Held:

> "...no rational ground existed on which to distinguish such persons from persons such as the plaintiff in the instant case merely because one happened to be a member of the bar and the other did not." (Italics added)

(17)

So on June 30, 1989 Appellants Reel(s) Filed in the Tax Court an Amendment to Motion to Reconsider, Citing the VERY, VERY,

(g)

(17 Cont.)

recent U.S. Supreme Court Case of Kalima Jenkins Vs. Missouri and brought this Case ALSO under the 1988 Civil Rights Attorneys Fees Act. The Tax Court Claimed they didn't come under it.

(18)

Whereupon on July 23, 1989 Appellants Filed to the Sixth Circuit Court for Appeal and a Mandamus Hearing under the Goldsmidth Decision. The Sixth Circuit stated in effect that they wouldn't Grant Appellants a Mandamus Hearing BUT WOULD HOWEVER Entertain an Appeal Motion.

(19)

Due to some kind of a technicality Appellants had to Resubmit this Appeal Motion and did so on 8/16/89.

(20)

Appellants subsequently Filed Amendment One, Amendment Two, Amendment Three and Amendment Four covering different aspects of the case.

(21)

The effect of these various was that the IRS conceded defeat on an increasing number of Legal Points and Issues and Lost by by Default on still more.

(22)

Finally, in November 1989 the IRS tried to erect a Defense and on Dec. 2, 1989 Appellants

(g)

(Par. 22 Cont.)

fired back a Response to the Reply Brief of the Government.

(23)

The CIR was unable to make an adequate Response and in February, 1990 Filed an untimely Motion.

(24)

While EVELYN D. REEL was in the Hospital due to a Heart Attack the Sixth Circuit Court picked that inopportune time to hand down a Denial of Attorneys Fees on August 2, 1990.

(25)

Appellants will state their Objections to this Decision in sub-section (j) of this instant Motion for a Jurisdictional Writ of Certiorari.

(26)

Just a few loose ends. The Court's attention is called to the Appendix to the Trial Transcript to get a clear picture of what REALLY did occur. THE RECORD SPEAKS FOR ITSELF. Appellants EVELYN D. REEL and WILLARD D. REEL Prays this Court to Rectify this TRAVESTY OF JUSTICE.

(27)

One more thing the Tax Court in Failing to COMPEL the CIR to Furnish Appellants with a Transcript of the Trial was in CLEAR ERROR by this failure to perform it's Duties.

(g)

(28)

APPELLANT HEREBY MAKE A MOTION FOR THIS COURT TO ORDER THE CIR TO COME FORTH WITH THE PRE-TRIAL AUDIT REPORT.

(29)

The Court's attention is called to the Joint Appendix, 12/10/89, wherein, Appellants EVELYN D. REEL and WILLARD D. REEL are asking for Attorneys Fees for the Attorney BILL OWENS who handled the Original Audit and got the Compromise Settlement that IRS Reneged on the Sum $6,000 for past Services, $3,000 in additional Interest and $9,000 for Punitive Damages for a Grand Total of $18,000. For Attorney-in-Fact DEWITT REEL they are asking for $520,000 for Punitve Damages and $280,000 for a Base figure for a Grand Total of $800,000. Interest at 11 per cent for 11 Months is added on to K.C. GRIFFIN8s Base Figure bringing the Adjusted Grand Total to $880,7000.00. The work done since 12/10/90 will be covered in the Certiorari.

(30)

These figures are very reasonable in light of the Petitioners RIGHT to MULTIPLE AWARDS under 2412 and FOIA Law UNDER WHICH HE HAS ALWAYS PROCEEDED. Surely Congress did not intend to Grant the IRS LICENSE TO KILL by limiting Award to 7430 and Rendering an Award under Civil Rights

(g)

(30)(Cont.)

IMPOSSIBLE. Also extreme BAD FAITH justifies a Punitive Award :

See: Legislative History of
2412 EAJA, P.L. 96-481,
P. 4996 U.S. Cong.

"This subsection reflects the beleif that, <u>at a minimum</u> the United States should be held to the <u>same standard</u> in litigation as other parties and that NO Justification exists for exempting the United States from fee awards in these limited situations"." Emphasis Added.

What possible extreme BAD FAITH could exceed the Fact that a Bonafide Compromise Offer by the IRS had been made-so bonafide that a former IRS Agent stuck her neck out in the utmost candor in Open Court and told about it- and the IRS Transferred her and LIED about so doing and in addition thereto after WILLARD D. REEL went to the Bank and Borrowed the Money to pay it off the new Agen t said in effect: "No way Hosea."

(g)

(31)

SUMMATION

In conclusion the IRS between February 24, 1989 and March 14, 1989 IRS DID THEN AND THERE IN THE KNOXVILLE OFFICE OF THEIRS without ANY Basis in Law or Fact Raised IRS's Litigating Position to $69,000.00 In 6 1/2 Hours of hard-nose bargaining the Defense team DROVE this latter figure down to $44,000.00 (NO WONDER THE IRS DOESN'T WANT TO COME UP WITH A PRETRIAL AUDIT REPORT). ALL this because of the Splendid way-in spite of IRS and Tax Court Bias-ALL members of the Defense team performed and the excellent way Para-Legals DEWITT REEL and K.C. GRIFFIN handled the the Case during the Tax Court Case Trial ITSELF the IRS Agreed to Settle the Case for $13,889.29 with a Proviso that Interest couldn't be added on to Interest and that Interest had to be figured according to what the Interest Rate was(kind of like what the old Case of Fidelity Insurance Co. Vs. CIR, Sou. Dist. Va. held: Whatever is Interest is Interest, with the implication being that Taxpayers don't have to pay more than the Law allows.).

(32)

Neither the CIR's Attorneys NOR Tax Court Judge Swift could Cite ANY Law for Denying the $5,700.00 Equity Offset. NEVERTHE LESS, THE PARA-LEGALS WON A VICTORY NO MEMBER OF THE BAR OR CPA COULD OR WOULD HAVE DONE.

(g) (33)

THEREFORE, the Tax Court was in CLEAR Error in IGNORING THE 1988 Taxpayers Bill of Rights. The Tax Court was in Error in Claiming in the face of an Appeal that the 1988 Civil Rights Attorneys Fees Act did not apply as per Kalima Jenkins, Supra in the Amend to the Tax Court Motion of Appellants for Recovery of Costs. The U.S. Sixth Circuit Court of Appeals was in Error in going against their OWN Decision in Hawkes, Supra AND the Cases Submitted by the Government and Conformed by the Sixth Circuit Court of Thiems, Supra and Covington, Supra and Corrollary Cases as regards Attorneys-In-Fact DEWITT REEL and K.C. GRIFFIN Right to BOTH Attorneys Fees and other Costs hereinbefore enumerated. THEREFORE, under 2101(j) and Appealants Section (a) under Rule 10(1)(a) the U.S. Sixth Circuit Court of Appeals Deperted from the accepted and Usual Court of Judicial Procedure AND HAVE MADE THIS CASE ONE FOR JUDICIAL REVIEW BY THE U.S. SUPREME COURT BY COMMITTING THIS REVERSIBLE ERROR. On Page One under (a) of this instant Jurisdictional Statement Appellants Raise strong Doubts as to the Erroneous Conclusions Arrived at by the Sixth Circuit Court in their Decision of August 2, 1990. Under subsection (j) of this instant Statement we detail and make specific our Objections thereto. In sub-

(g) (33 Cont.)

section (j) we SMASH ALL the Grounds the U.S. Sixth Circuit Court of Appeals Relied on.

(34)

Also Grounds for Recoverable Costs under Case and Statute Law have been Cited, Quoted and have been shown to be applicable on a Factual Basis on numerous Grounds in this instant Case under IRC 7430; IRC 1020 the 1974 FOIA and EAJA 2412 and have been compellingly Set Forth.

(35)

Just an afterthought but a important one going back to Par. 33 where we Cited Thiems, Supra and Covington, Supra the first one was a Fifth Circuit Case and the second one was an Eleventh Circuit Court Case, THEREFORE, there is a conflict between the Circuits Courts ahd THIS under U.S. Supreme Court Rules lays Grounds FOR APPEAL TO THE U.S. SUPREME COURT.

(36)

THE MOST IMPORTANT OF ALL IS THE 1988 TAX-PAYERS BILL OF RIGHTS WHICH-TO APPELLANT'S KNOWLEDGE AND BELIEF-EMBRACE ISSUES WHICH THIS INSTANT U.S. SUPREME COURT HAS NEVER BEFORE RULED ON.

(37)

WHEREFORE, at this instant point in time EVELYN D. and WILLARD D. REEL Request this Honable Court to Grant $18,000.00 to Attorney BILL OWENS; Attorney-In-Fact K.C. GRIFFIN 995,282.00;Attorney-in-Fact DEWITT REEL 880,700.

(h) Reasons Why Questions are Substantial & Federal.

1. WHY SHOULDN'T the Commissioner of Internal Revenue, Tax Court Judge Swift, the U.S. Attorney General Dick Thornburgh, AND U.S. Circuit Court Judges Kennedy, Boggs and Suhreinheit follow the CLEAR LANGUAGE of the 1988 U.S. Taxpayers Bill of Rights, Act 6239 and Companion Acts without FRIVOLOUS EXCUSES and Grant Relief???

2. Why must the CIR be allowed to hide behind Frivolous Excuses in applying IRC 7430, the 1974 FOIA, EAJA 2412, the 1988 Civil Rights Fees Act, U.S. Tort Claims Act, Title 46 and Act 1029 and Grant the Reels the Relief sought?

3. WHY SHOULD IRS NOT BE PUNISHED UNDER THE 1988 Taxpayers Bill of Rights Act for COVER-UP as per 6239, E(1) & (2)?????

(1) BASIS FOR FEDERAL JURISDICTION...
IN COURT OF FIRST INSTANCE.

U.S. TITLE 26, IRC

U.S. TITLE 28

DOCTRINE OF EQUITY

AMENDMENTS ONE THRU EIGHT; FOURTEENTH AMENDMENT & SIXTEENTH AMENDMENT, UNITED STATES CONSTITUTION OF AMERICA.

(j) REASONS RELIED ON FOR THE U.S. SUPREME COURT ALLOWANCE OF THE WRIT.

NOTE: There are MANY Important Reasons for allowance of the Writ, HOWEVER, Number One, namely, the U.S. Sixth Circuit Court of Appeals Decision of August 2, 1990 WAS OF AND BY ITSELF "A TRAVESTY OF JUSTICE", PER SE. Moreover, this crowning blow of Denial of Equal Access to Justice means that Ellsberg Vs. U.S., Supra MUCT be considered, namely, "that the totality of the circumstances constitutes "A TRAVESTY OF JUSTICE". WE TAKE UP THE APPELLATE DECISION FIRST.

1. <u>The U.S. Circuit Court of Appeals Decision of August 2, 1990</u>.

(1)

Appellants list under (a) on the very first Page of this Jurisdictional Statement and Application for a Writ of Certiorari the gist of the Sixth Circuit Court of Appeals <u>Order of August 2, 1990</u>. Therein Five Questions are Raised. In addition thereto in the Motion tion for a ReHearing of an EN BANC Sixth Circuit Court of Appeals and an Appeal to the U.S. Supreme Court the Senior Reels Raise Six Constitutional Grounds for Challenging the Notation (under (f), P. 12 we make mention of the same) "Not Recommended for Full Text Publication". Under (g), P. 20, Par. 12 of this instant StatementAppellants show that their Response to this U.S. Sixth Circuit Court Order that they meet ALL the Criteria of Rule 24 and SHOULD RECEIVE FULL TEXT PUBLICATION.

(4) (2)

Before Petitioner(s) WILLARD D. REEL and EVELYN D. REEL go into a Brief discussion of Rules, Technicalities and Issues let the Record show that there has been a TRAVESTY on the part of the Commissioner of Internal and at least Eight obstinate Government lawyers by the Denial of Due Process of Law and Denial of Equa l Access to Justice and by the deliberate ignoring by them of the effect of the 1988 Taxpayers Bill of Rights, Act 2239 and Companion Acts. This is true because they know full well that Petitioner(s) Attorneys-In-Fact K.C. GRIFFIN and DEWITT REEL are absolutely entitled to to receive Attorneys Fees and Other Legal for a SMASHING Victory by being the "Prevailing Party" as provided for by the said 1988 Taxpayers Bill of Rights in the Tax Court Case of Reel(s) Vs. Commissioner of Internal Revenue on March 15, 1989 and that they aided with might and main in the obtaining of said Victory WHEN NO ONE ELSE WOULD TOUCH THE CASE and that in addition thereto that the 1988 Taxpayers Bill of Rights and other applicable Law CLEARLY applies the CIR THEN AND THERE came forth with NOTHING but Flimsy Excuses. This is true, see below:

"because of the Commissioner's determination to be in error."
Steel or Bronze Piston Ring Corp. Vs. Comm., 13 TC 696

(3)

(3)

Petitioner(s) state that they are Filing this Case before Docketing as per Rule 13.1, see below:

> "An appellant at any time prior to action by this Court on the Jurisdictional Statement may request the Clerk of the Court to Certify it...<u>but the Filing of the record in this Court is not required for the Docketing of an Appeal.</u>" (Italics added)

(4)

Under Rule 13.1 Appellants made a Motion to the U.S. Sixth Circuit of Appeal For a Motion to Reconsider which was Received by the Sixth Circuit Court on August 20, 1990. Then in an Amendment to said Motion to Reconsider Dated September 9, 1990 Appellants called on the Appellate Court to DOCKET the Case. This was followed up with a Legal Memo on September 20, 1990. THERE HAS BEEN NO LACK OF PROSECUTORIAL EFFORT ON THE PART OF PETITIONERS WILLARD D. REEL AND EVELYN D. REEL IN PURSUIT OF SAID APPEAL.

(5)

Since without just cause and contrary to it's own precedent the U.S. Sixth Circuit Court of Appeals has sought to Deny Right to Counsel

(j)

(5)

and Right to Practice of Appellant's Counsel Appellant hereby invokes Rule 6. The details of the said matter are contained in the Motion for ReHearing to the U.S. Sixth Circuit Court of Appeals. Appellant Court's own findings and Case Law permitting Para-Legals Right to Practice are set forth on Page 8, Joint Appendix, under "Signature Note" Filed in the U.S. Sixth Circuit Court, 12/10/89. Commentary on the said Question shall be concisely covered in the Writ of Certiorari. The Court's attention is called to, see below:

Dennis V. U.S.,
1950, 71 S. Ct. 133,
340 U.S. 887,
95 L. Ed. 644

"To the end that there is adequate presentation by qualified counsel of Issues relevant to litigation, the litigants have the right to make their choice...or be represented by non-members of the bar who are given special leave under appropriate circumstances to appear pro hoc vice."

(6)

In Motions Filed we show by Legislative History where IRC 7430 defers to Stat. 2412, PL 96-481 at 4997 (1980), U.S. Code and Admin. News. We show by the Legislative history of the IRC 7430, PL-97-248 where IRC 7430 ITSELF provides for attorneys Fees. We are entitled

(j)

(6 Cont.)

to ALL Amounts sought. In Part it states:

> "...Section 7430 was promulgated merely to remedy in Tax Cases what section 2412(d)(1)(A) of the EAJA FAILED TO PROVIDE FOR." (Italics added)

So the who intent of IRC 7430 has been twisted around to do the exact opposite by the CIR by the erroneous interpretation of the same by the Commissioner of Internal Revenue in this instant Case of Reel(s) Vs. CIR. We show in Par. Four, ibid., where IRC 7430(c)(3) in it's VERY words "ATTORNEYS.....(whether or not an attorney) provides for Fees for Attorneys-in Fact" and so under ther terms of IRC 7430 ITSELF K.C. GRIFFIN and DEWITT REEL are eligible for said Fees. The said Griffin and Dewitt Reel are also Eligible under the plain wording of PL 100-647, 102, Stat. 3832, towit:

> "c) REPRESENTATIVES HOLDING POWER OF ATTORNEY
>
> "..who has a written power of attorney..may be authorized by such taxpayer to represent the taxpayer...subsection(a)" (Italics added)

Par. 5, ibid. shows where ALL "reasonable litigation costs" are covered by 7430(c)(1)(ii)(II).

In Paragraph 6, ibid. under Holly Vs. Acree, Supra, the Court Held:

(j)

(6 Cont.)

Holly, Supra

> "...no rational ground existed on which to distinguish such persons from persons such as the plaintiff in the instant case merely because one happened to be a member of the bar and the other did not." (Italics added).

We further show where 28 U.S.C.A. 1920, the FOIA, the 1988 Civil Rights Attorneys Fees Act and MOST DEFINITELY the 1988 Taxpayers Bill of Rights are ALL applicable. In the Amendment to the Motion we bear(Sixth Cir. Ct. Motion) down on the 1988 Taxpayers Bill of Rights, Act 2339 and show how throughout this WHOLE Case it has been and IS applicable.

(7)

Petitioner(s) are preceding under U.S. Title 28, Section 2101 which allows 90 Days for a Case of this nature to be Appealed. This U.S. Sixth Circuit Court of Appeals Decision which Aggrieved parties Contest was handed down on August 2, 1990 so we are within that Time Limitation Period.

(8)

Point of Inquiry: How much time is allowed from the Filing of a Jurisdiction Statement and Application for a Writ of Certiorari until a Writ of Certiorari must be Filed Without a special Stay of Execution??

(9)

Petitioner(s) Pray this Court to Grant Leave to File as per:

Georgia Vs. Grant, 1868, 73 U.S. 241, 6 Wall 241, 8 L. Ed. 848

(10)

As per Rule 15(c) the following Questions are asked:

(1) Why since the Petitioner(s) have met ALL of the Requirements of the Taxpayer Bill of Rights, Act 2339 hasn't the Commissioner of Internal Revenue and/or the U.S. Attorney General complied with the CLEAR, CONCISE and LUCID Requirements of the 1988 Taxpayers Bill of Rights??

(2) Why haven't they met clear Requirements of the other Cost Recovery Acts as spelled out in Par. One of this instant Jurisdictional Statement?

(3) Why should Petitioner(s) not be Granted multiple Fees under more than one Statute due to COVER-UP

(j)

(10 Cont.)

(3) (Cont.) as per the 1988 Taxpayers Bill of Rights Act 2339, (E) (1) and(2)???

(11)

In further Response to the Sixth Circuit's contention in it's August 2, 1990 Decision that a person must be a member of the bar in order to Recover Costs the Court's attention is called to Appellant's Reply Brief, bottom of Page

(j) (11 Cont.)

Eight, Poythress, Supra, dissenting Opinion, wherein it states that OVER TWO DOZEN Dictionaries define 'attorney', see below:

> "...Without exception they define term of 'attorney' in terms of someone who acts for <u>another</u>....." Original Emphasis.

(12)

In Response to the Sixth Court's Ruling that the 1988 Civil Rights Attorneys Fee Act doesn't apply to this instant Case the Court's attention is called to Appellant's Reply Brief, 12/2/89, Pages 14 and 15 where the specifics are clearly set forth. Moreover, Jenkins, Supra was Cited, Quoted and shown to be applicable to this instant Case in the Reels Amendment to Motion for Reconsideration, Tax Court, 4/11, 1989.

(13)

GROUND NO. TWO EQUITY

Appellants EVELYN EVELYN D. REEL and WILLARD D. REEL state that they are entitled to Equitable Relief for themselves personally. The Foreword to the Interrogatory, in Paragraph Two, Filed in January, 1989 the Question of EQUITY is raised. Also in Paragraph 13 it is

(j) (13 Cont.)

further "embedded in the record." Foundation was built on by Questions 28, 29, 30, 32, 33 of said Interrogetory. Also Questions 39 & 42, 43 44, 49, 145, 147, 302 & 204, 231 232, 235, 236 245 and 245, 251 and MOST DEFINITELY 253 where Grounds were laid for a $5,700.00 Motion for an EQUITY OFFSET under Midpoint Rlty, Supra which Motion was subsequently Filed. Se Questions 265, 294 and 306. NOW THEN Equity is Raised and Covered and Case Law Cited and Quoted on Pages 4, 5, 6 and 7 at the bottom of Page 8, of the Joint Appendix. APPELLANTS PRAYS THIS COURT FOR EQUITABLE RELIEF.

(14)

GROUND #THREE. DENIED DAY IN COURT, A FAIR TRIAL AND A RIGHT TO BE HEARD, as Per:

U.S. Vs. Galloway, Supra

> "'Day in Court' means that one must not be only called to appear and to answer when ones Name is called but must be heard and allowed to give Testimony and to present Evidence and Witnesses."

The Senior WILLARD D. REEL was not permitted to comment on Prima Facie Evidence of Cover Up. He was not permitted to call all of his Witnesses. He was not permitted to introduce, Identify and comment on other Evidence.

(j) (14 Cont.)

Efforts were made to Gag both of his Counsel (figuratively at least). TC Judge Swift Announced his Intention of Ruling against the Reels before all of the Evidence was in. TC Judge acted contrary to the Facts presented and the Law applicable in Denying Appellants "IRS has the Burden of Proof" Motion and other Motions.

(15)

GROUND FOUR. The Senior Reels have been Denied EQUAL ACCESS TO JUSTICE. THIS WAS MADE quite clear that this was the Intent and "Modus Operandi" from the start by the Court's Statement:

> "Don't worry about what classification we put you in."

as Documented in the Trial Transcript.

(16)

GROUND FIVE. VERY IMPORTANT PUBLIC ISSUES.

(a) The lower Court's have Departed from the accepted and Usual course of Judicial Proceedings in that they have failed to Order a Mandamus Hearing and have sought to hamstring Petitioners Right to Counsel contrary to Rule 10(1)(a). Hawkes, Supra.

(j) (16 Cont.)

GROUND FIVE. (Cont.

(b) An Important Question that MUST be Decided by the U.S. Supreme Court, namely, COST RECOVERY under the Taxpayers Bill of Rights as per Rule 10(1)(c).

(c) Clear Error by the Appellate Court.

(d) Constitutional Grounds as hereinbefore set forth.

J. (17)

(e) This is our Court of Last Resort to Ob-
EQUITY. EQUITY is an important consider-
ation in Tax Legislative History.

(k) **APPENDIX**

(i) Sixth Circuit Court's Opini on, 90-1905, August 2, 1990

(ii) U.S. Tax Court, April 17, 1989. IRS Compromise Offer of Jan. 19, 1984

(iii) ORDER ON REHEARING FROM U.S. SIXTH COURT STILL has not been seen by Counsel as of this writing.

(iv) Tax Court and Sixth Circuit Ct of Ap. OPINIONS PREVIOUSLY CITED.

(v) Petitioners Index to Trial Transcript (best original copy)

Tax Court Memorandum
(even though NOT accurate

ALSO SEE: Other Petitioners Actions.

NOTICE OF APPEARANCE OF COUNSEL

The foregoing is Filed pursuant to Rule 9.

DEWITT REEL and KC. GRIFFIN hereby make known to this U.S. Supreme Court by these presents that they are the Ad Hoc Vice Counsel for the Appellants in this instant Case of EVELYN D. REEL and WILLARD D. REEL Vs. COMMISSIONER OF INTERNAL REVENUE.

See Dennis, Supra cited previously:

> "litigants have the right to make their choice... or be represented by non-members of the bar."

Under Rule 6.1 and 5.1 Petitioners Counsel(s) are of good moral and professional character.

Under Qualifications they cited the following:

K.C. GRIFFIN, TAX AUDITOR. Fourty-Six Years of Legal, Accounting and Tax work including Four Years experience as Georgia State Revenue Examiner and approximately Thirty Years of experience in private practice. PREPARED Senior Reels TC Case and WON with his able Co-Counsel, DEWITT REEL.

DEWITT REEL, VALUATION EXPERT. Assisted with Court Rules Applicatio, Shepardizing, Negotions and all phases with able Co-Counsel above prepared Senior Reel's TC Case and WON.

Also see: Holly V. Acree, Supra:

NOTICE OF APPEARANCE OF COUNSEL
(Cont)

Holly, Supra

"No rational ground existed to distinguish such persons from persons such as the plaintiff in this instant case merely because one happened to be a member of the bar and the other did not."

SIGNATURE PAGE

Evelyn D. Reel

EVELYN D. REEL,
Appellant

Willard D. Reel

WILLARD D. REEL,
Appellant

DeWitt Reel

DEWITT REEL,
Attorney-In-Fact

K. C. Griffin

K.C. GRIFFIN,
Attorney-In-Fact

DATE 10/28/1990

APPENDIX

TABLE OF CONTENTS

APPENDIX

APPENDIX A

No. 89-1905

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

EVELYN D. REEL; WILLARD D. REEL, Petitioners-Appellants, v. COMMISSIONER OF INTERNAL REVENUE, Respondent-Appellee.	O R D E R (Marginal Entry covered by FN #1)

BEFORE: KENNEDY, BOGGS, and SUHREINRICH, Circuit Judges

This case has been referred to a panel of the court pursuant to Rule 9(a), Rules of the Sixth Circuit. Upon examination of the briefs and record, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a)

Evelyn D. and Willard D. Reel appeal the Tax Court's denial by marginal entry of their motion for recovery of certain costs and fees from the Internal Revenue Service. The Reels contend that they are entitled to recover the amounts claimed because they successfully pursued a civil action for redetermination of a tax deficiency in the Tax Court. Upon consideration, we conclude that the motion for costs and fees was properly denied as a matter of law.

APPENDIX ONE

I.R.C. # 7430 provides the sole remedy for the amounts sought. Lawler V. United States, 16 Cl. Ct. 53, 55-56 (1988). However, attorneys fees and costs expended during administrative proceedings prior to civil litigation are not recoverable. Kansas City S. Transp. Co. v. United States, 11 Cl. Ct. 484, 488 (1986); Columbus Fruit & Vegetable Coop. Ass'n, Inc. V. United States, 8 Cl. Ct. 525, 530-31 (1985). Likewise amounts attributable to individuals not "authorized to practice before the Tax Court or before the Internal Revenue Service" are not recoverable. See I.R.C. #7430(c)(3). Missouri v. Jenkins, 109 S. Ct. 2463 (1989), is not to the contrary. In Jenkins, the Supreme Court concluded that compensation for non-attorneys as a component of "the work product of an attorney" is available under 42 U.C. # 1988. Jenkins, 109 S. Ct. at 2470. Here, the individuals in question did not act under the supervision of an attorney. Thus, the amounts petitioners sought are not recoverable under # 7430.

Accordingly, the judgment of the Tax Court is affirmed. Rule 9(b)(5), Rules of the Sixth

Circuit.

ENTERED BY ORDER OF
THE COURT

Signed Leonard Green, Jr.
Clerk

FN #1 (Marginal Entry)

NOT RECOMMENDED FOR FULL TEXT PUBLICATION
Sixth Circuit Rule limits citation to specific situations. Please see Rule before citing in a proceeding in a proceeding in a court in the Sixth Circuit. If cited, a copy must be served on other parties and the Court.

This notice is to be prominently displayed if this decision is reproduced.

REJOINDER

As previously Noted strong Objection to this Cover-Up Gag Order was made in an Appeal before the Sixth Circuit. As Noted in the Body of this instant Writ Petitioner(s) meet the cirteria of another one of the Court's Rules in specific detail. So on both Constitutional and Rules Grounds this "Not Recommened, et cetera "bit falls under "De Mini Mis Curat" meaning "The law does not take note of small or trifling matters." No wonder the Sixth Circuit Court doesn't wan't the world to see such a Flawed and Erroneous Decision!

OBJECTIONS NOT PREVIOUSLY

NOTED

APPENDIX THREE

OBJECTIONS (Cont.)

COMMENTARY ON JENKINS, SUPRA

The Sixth Circuit Court infers and reads too much into the phrase: "the work product of an attorney."

The Sixth Circuit Court ALSO is placing too much stress on "under the supervision of an attorney." Although the Attorney gave general instructions when Kalima Jenkins first drove up and maybe gave an occasional suggestion the Amount of the work and Quality of the work was Great because Kalima Jenkins did a Great Job NOT because some member of the Bar Signed papers every once in a while or made a perfunctory visit to the Court House once in a Blue Moon.

In the first place the Supreme Court did not Address the Issue of: "If Kalima Jenkins had done just as good of a job WITHOUT an Attorney present would she STILL be entitled to an Award?" This phrase "the work product of an attorney" was tossed out almost as an afterthought or a Post Script.

There were several STRONG Reasons here: (a) the Court clearly felt that the Biblical Precept: "the workman is worthy of his hire" should apply; (b) they also felt that the Legal

Precept: "Justice delayed is Justice Denied" applied; (c) they clearly indicated that because of"the government's resistance" that Kalima Jenkins should get MORE than the going Rate; (d) they clearly stated that because the Government SCORNED paying the modest Amount she originally asked for the Government should be PUNISHED so that in the future this type of situation wouldn't persist to plague the Cause of Justice; (e) Finally, they felt that her "loss of income" was not a matter to be lightly Dismissed or swept under the rug.

Since the Attorney didn't or couldn't pay Kalima Jenkins out of his or her OWN pocket It's VERY unlikely that the Attorney would help Jenkins on the Cost Recovery Suit and THAT is what this Para-Legal WON on.

OTHER OBJECTIONS

Properly interpreted an upDated version of IRC #7430 says no such thing and since the U.S. Civil Rights Attorneys Fee Act did not go into effect until June, 1988 and the Taxpayers Bill of Rights Act did not go into effect until November, 1988 Lawler V. U.S., Supra doesn't apply. Kansas City, Supra and and Col-

umbus Fruit, Supra bot obviously weren't tried under either of these laws and likely not under the 1974 FOIA nor the EAJA 2412 nor IRC 1020 so the Sixth Circuit Opinion stands on VERY nebulous and flimsy Grounds.

As Petitioner(s) shall show when we take up the Tax Court Decision by Marginal Entry it is simply ludicrous to state that either K.C. GRIFFIN or DEWITT REEL are not "authorized to practice before the Tax Court or before the the Internal Revenue Service." In view of the Fact that K.C. GRIFFIN got a Lien Suspended for a client ONLY two Days ago the Government would do well to drop this Argument before their Attorneys look even more foolish.

DOCUMENT TWO

COMMENTS ON U.S. TAX COURT DECISION BY MARGIN* AL ENTRY.

On the Upper Left-hand corner of Document already seen by this Court is the Notation: "Leave to file" GRANTED and Signed by Stephen J. Swift, Judge. In the Center of same in Heavy Print is the word "RECEIVED" then Sept. 14 1989 LEONARD GREEN, Clerk. In the upper

right hand corner in handwriting at the top of the page it reads "recd 4/17/89" and below that it reads "S/O 4/5/89" and then at the bottom of the page it states: "Not Admitted U.S. Tax Court" and up above that is the word "Signed" in parenthesis marks and then "Stephen J. Swift". So this clearly shows that for a considerable period of time that the Para-Legals K.C. GRIFFIN and DEWITT REEL were Recognized as being Admitted to the Tax Court and then on Whim and Caprice and for no apparent Reason at all Contrary to Due Process of Law as provided for by the Fifth Amendment, U.S.C.A. Judge Swift came out with this business of "Not Admitted U.S. Tax Court" as though he didn't have to answer to anyone or abey any laws on the Subject.

It may be putting the cart before the horse but the caption of the Case follows on the next page.

The Reel(s) Counsel ARE Attorney's IN=FACT.

APPENDIX SEVEN

UNITED STATES TAX COURT

EVELYN D. and WILLARD D. REEL, Petitioners	)	
VERSUS	)	
COMMISSIONER OF INTERNAL REVENUE, Respondent	)	DOCKET NO. 10298-87

* *

MOTION FOR RECOVERABLE COST

* *

Petitioner now covers Trial itself VIA Reel's Index to the Trial Transcript itself which was introduced in the U.S. Sixth Circuit Court VIA Mail on December 1, 1989. Note that a good portion of this is direct Quotes from the participants in the Trial itself so we are permitted to single-space those. There are parts that were single-spaced that we shall double space to make things clearer, HOWEVER, nothing is deleted or added to what was introduced to the Sixth Circuit Court.

REEL'S INDEX TO TO TRIAL TRANSCRIPT

REEL VS. CIR
Sixth Circuit Court
Dec. 1, 1989

APPENDIX EIGHT

REEL'S INDEX, ETC. (Cont.)

One Disallowance of Representation

a) Griffin and D. Reel have power of Attorney-P. 2, Line

full documentation available

b) Disallowance of Representation P.2-Lines 20-23

c) allowance to consult, P. 3

d) Court limits consultation, P. 3

e) Court recognizes agent "his assistant" P. 61, L. 18

Two Prejudicial Actions

a) P. 16, Line 21- P. 17, L. 11

"so that we don't have to worry what classification the IRS might have placed you in."

b) Court did not Admit Owens Argument WAS ALL LAW AND CLEARLY RELEVANT, P.22, Line 16

NOTE TO THE U.S. SP. CT: Owens was the Attorney that obtained the Compromise Offer in 1984 that the Tax Court HAD TO Accept.

APPENDIX NINE

REEL'S INDEX, ETC. (Cont.)

Two Prejudicial Actions

(c) Court attempts to force settlement, P. 42, Line 14.

(d) Equity Offset, P. 72-Line 20-Page 3. Petitioner Requests Ruling on Imputed Interest-Request 6th Cir. Ruling.
Equity Offset, P. 73, Line 8.

(e) Court's Prejudicial Valuation, P. 139, Line 18-P. 140.
(2 X 10 Equals 200),P. 143, L. 10.

The Court: "Okay. Now I assume these Gaylord stores-the whole property probably wasn't worth much more than a million including all the inventory inside it." (Italics added).

Mr. Reel; "Your honor, if the store had 60,000 Ft and if it were worth 10 Dollars a foot that is $600,000. Today a department store is worth approx. $110 a foot, I would say. So the building itself would be worth a $6 Million."

NOTE: The Tax Court's Valuation ability is absolute unreliable.

APPENDIX TEN

REEL'S INDEX, ETC. (Cont.)

Three) IRS Bad Faith and Frivolous Arguments.

(a) IRS objects to own document as hearsay, P. 13, Line 14, P. 14- Line 21.

b) Outlaw Units, P. 15, Line 20, P. 16

c) IRS Capricious and arbitrariness-

Mr. Holman: "Your honor we-you have a set and Mr. Reel has a set, and I do know what my objection IS, but to be a little more specific, I might need to borrow their copy. "

Number 157, P. 17, Line 21-P 18, L. 14.

d) Petitioners' good faith, P. 191, L. 20

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e) Proof of Exhaustion of Administrative Remedies, P. 21, L. 20

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COURT: "I am wondering why Mr. Montrose isn't being brought to authenticate the documents." "Does the Govt. know something I don't." P. 30

REEL'S INDEX, ETC. (Cont.)

Three) IRS Bad Faith and Frivolous Arguments.

f) (See Line 6 and Line 17 for contradictory IRS excuses not to call Montrose, P. 31, P. 32)

g) IRS Reneges on Offer

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P. 33, L. 12

P. 34, L. 7

P. 36, Also P. 42, L. 19

Also P. 45-46

Offer & Acceptance, P. 176, L. 7.

IRS Cover-Up Black-out in acceptance

Offer, P. 178, L. 10, P. 182.

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H) Massive Audits, P. 36, Line 24.

COURT: "Who is telling you (theirs) you could not make a better offer, Mr. Nadler?", P. 37

APPENDIX TWELVE

REEL'S INDEX, ETC. (Cont.)

Three) IRS Bad Faith and Frivolous Arguments.

h) Massive Audits, P. 37

COURT: "or chief counsel or national office or regional counsel or the court, or who is preventing you from..

"Mr. Holman made an absolute statement that it could not be deviated from. I am just wondering. That is the first time I have heard any government attorney, I think, make that kind of Statement". P. 37, L. 12-16.

i) IRS SHAM AND SUBSTANTIALLY UNJUSTIFIED,

P. 47, 48.

continues frivolous arguments and arbitrary actions, P. 49, 50.

"Thank you Fred Holloman."

Frivolous argument, P. 51, L.1-25

Malicious and Vexatious, P. 52-53
Prejudicial Ruling, P. 53, L. 24
P. 58, L.5 (Refused Estimate)

APPENDIX THIRTEEN

REEL'S INDEX, ETC. (Cont.)

Three)

j) Additional Taxpayer prevails, P. 59, L. 11

k) IRS Bad Faith-attempt to exclude counsel by Rule 145, P. 60, L. 6.

l) Mr. Holloman admits he is Ford family-conflict of interest, P. 63, L. 13

m) IRS wanted to pretend there was no Evidence.

IRS wanted no evidence presented-Petitioners Discovery & Interrogatories forced Hearing despite unreasonable IRS position

P. 106 OPERATING RECORDS

n) IRS SHAM-Swarts, et. al, P. 121, 122 123, 124.

Attempt to Prejudice the Court

Sham Revealed, p. 165, 166

o) REASON

REEL "The IRS refused the deductions and therefore the lawsuit was Iniated.

APPENDIX FOURTEEN

Three)

o) REASON

REEL: "That is apparent on the surface. It is the only reason for it. Not because of any problem with Sandhurst, BUT because of the action of the IRS.", P. 166

p) Frivolous Objection to the Lease,

P. 148, P. 149.

o) "UNFAIR" Heading of Appraisal

UNREASONABLE ACTIONS, P. 158, L. 13

COURT: "That is certainly not a fair reading of that document"

More Appraisal Illogic, P. 167.

r) Victory on Placed in Service

IRS Issues

P. 163, Lines 1-15

s) IRS confiscation of Woods Records-

COVER-UP, P. 163, Line 2-15

P. 164, Line One

"And Mr. Holloman wants to know where they are. That is a curious fact."

REEL'S INDEX, ETC. (Cont.)

Four Taxpayer Victory, P. 186, Line 17.

Tax substantially Reduced, Bus. Ded.

Maintained, Credit to be APPLIED.

100% VICTORY ON 6653(a)(1)

6653(a)(20 AND 6659.

Five COURT CONGRATULATIONS

COURT: "I compliment you on your presentation".."You did better than many attorneys."

NOTE: THE ONLY EXHIBITS ARE THE 12 REFERRED

TO IN THE TRANSCRIPT.

APPENDIX SIXTEEN